

7 Am. Jur. 2d Automobile Insurance § 89

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Automobile Insurance

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III. Risks and Harms Coverage

A. In General


2. Construction of Terms for Purposes of Coverage or Exclusion

a. Use of Motor Vehicle

§ 89. Use by passenger defined by control of vehicle; rider distinguished

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Insurance](#)  2677, 2678

A.L.R. Library

[Automobile liability insurance: what are accidents or injuries “arising out of ownership, maintenance, or use” of insured vehicle, 15 A.L.R.4th 10](#)

Treatises and Practice Aids

For uses or causes of loss within coverage, generally, see Couch on Insurance 3d, Uses or Causes of Loss Within Coverage Generally[[Westlaw®\(r\): Search Query](#)]

A passenger in an automobile is using the automobile where the passenger has authorization for the use of the automobile and it is being driven by another person with the passenger's permission.¹ It is not always clear whether a passenger, without such

right to control, is a user of the automobile. In some cases, a passenger's mere act of riding in an automobile has not been considered to constitute the use of a nonowned automobile.² Furthermore, where a student was given a ride in an automobile driven by the daughter of the owner, the student was not considered to be using that automobile when he threw a bottle out of the window at another person.³ On the other hand, a passenger who physically seizes control of an automobile has been said to be using that automobile during the process of seizure.⁴

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Footnotes

- 1 [Ray v. Earl](#), 277 So. 2d 73 (Fla. 2d DCA 1973); [Grange Mut. Cas. Co. v. Rosko](#), 146 Ohio App. 3d 698, 2001-Ohio-3508, 767 N.E.2d 1225 (7th Dist. Mahoning County 2001).
- 2 [Allstate Ins. Co. v. Szemerédi](#), 54 Fed. Appx. 261 (9th Cir. 2002) (applying California law); [Dunlap v. Maryland Cas. Co.](#), 242 Ark. 533, 414 S.W.2d 397 (1967).
An insured's resident relative was not using the insured vehicle when she merely rode in it as a passenger while it was driven by a third party who had received permission not from the insured, but from the insured's resident relative; thus, the insurer was not responsible for the injuries the fellow passenger received in the accident. [Allstate Ins. Co. v. Smith](#), 202 W. Va. 384, 504 S.E.2d 434 (1998).
- 3 [Home Indem. Co. v. Lively](#), 353 F. Supp. 1191 (W.D. Okla. 1972).
- 4 [U. S. Fidelity & Guaranty Co. v. Hokanson](#), 2 Kan. App. 2d 580, 584 P.2d 1264 (1978).

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